IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6471 of 2005

Between:

D.Sukumar, S/o. Sri Dharmalingam,
Plot.No.4, Ramgopal Enclave, Hashmathpet, Bowenpally,
Secunderabad.

..... PETITIONER

AND

1 Municipal Corporation of Hyderabad, BRKR Buildings Tank Bund Road, Commissioner.
2 Chief City Planner, M.C.H,BRKR Buildings,
Tank Bund Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or Direction in the nature of Mandamus or otherwise declaring that the impugned proceedings of the Second Respondent bearing No.193/TP/MCH/SD/2005 dt. 7.2.2005 as illegal, arbitrary, and ultra vires the powers of the Respondents under the Hyderabad Municipal Corporation Act and consequently declare the same as unenforceable and that the petitioner is entitled for consideration of his building application subject to condition as imposed in Annexure IV order of this Hon'ble Court.

Counsel for the Petitioner: MR.VILAS V.AFZULPURKAR

Counsel for the Respondents: SMT.G.JYOTHI KIRAN

The Court at the stage of admission made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondent Corporation.

This writ petition is filed aggrieved by the proceedings issued by the respondent Corporation dated 07-02-2005 where under the request of the petitioner for construction of ground, first and second floor at Plot No.51 in Sy.No.74/9 of East Marredpally, Secunderabad was rejected on the ground that L.G.C.No.167/97 filed by the Government against some of the illegal encroachers in respect of the land in question is pending before the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad.

It is brought to my notice by the learned counsel for the petitioner that having considered an identical issue, a Division Bench of this Court in W.A.No.61 of 2000 permitted the appellant therein to construct the building at his own cost and risk subject to furnishing an undertaking to that effect. It is also brought to my notice that several other writ petitions have been disposed of in terms of the order of the Division Bench in W.A.No.61 of 2000.

Learned standing counsel appearing for the respondent Corporation does not dispute the said fact.

Accordingly, following the decision of the Division Bench in W.A.No.61 of 2000 the impugned order dated 07-02-2005 is set aside and the writ petition is disposed of with a direction to the respondents to consider the building application of the petitioner afresh, in accordance with law, subject to the condition that the petitioner furnishes an undertaking before the respondents stating that in case L.G.C.No.167 of 1997 pending on the file of the Special Court is decided in favour of the Government, he shall remove the structures without claiming any equitable relief. It is made clear that any such constructions made by the petitioner are at his own cost and risk.

The Writ Petition is accordingly, disposed of. No order as to costs.

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G. ROHINI, J

Dated: 13-04-2005

LSK

ASSISTANT REGISTRAR

To

1 The Commissioner, Municipal Corporation of Hyderabad, BRKR Buildings, Tank Bund Road, Hyderabad.
2 Chief City Planner, Municipal Corporation of Hyderabad, BRKR Buildings, Tank Bund Road, Hyderabad.

3 Two C.D. Copies.